


**Government of the District of Columbia  
Office of the Chief Financial Officer**



**Natwar M. Gandhi**  
Chief Financial Officer

**MEMORANDUM**

**TO:** The Honorable Vincent C. Gray  
Chairman, Council of the District of Columbia

**FROM:** Natwar M. Gandhi  
Chief Financial Officer 

**DATE:** April 28, 2010

**SUBJECT:** Fiscal Impact Statement – “Adoption Reform Amendment Act of 2009”

**REFERENCE:** Bill Number 18-547, Draft Committee Print

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*This revised Fiscal Impact Statement reflects the changes made in the Committee Print, and it replaces the Fiscal Impact Statement issued by the OCFO on February 26, 2010.*

**Conclusion**

Funds are not sufficient in the FY 2010 through FY 2013 budget and financial plan to implement the provisions of the proposed legislation. While there is an overall positive net impact of \$3.7 million over the FY 2010 through FY 2013 budget and financial plan period, in FY 2011, there is a negative impact on the Child and Family Services Agency (CFSA) of approximately \$63,000. Without the reprogramming or reallocation of funds to CFSA to cover these or other costs incurred by CFSA in FY 2011, funds would not be sufficient.<sup>1</sup> *Title III. Volunteer Foster Care Registry and Title V. Adoption and Guardian Subsidy Extension* are the only titles that would create a fiscal impact.

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<sup>1</sup> Council staff has indicated that they plan on reallocating capital funds in the Fiscal Year 2011 Budget Support Act of 2010 to cover some, or all, of the \$250,000 in costs that would be incurred by CFSA in FY 2011 to upgrade FACES.NET. See page 9 for more information. If at least \$63,000 were allocated, funds would be sufficient over the FY 2010 through FY 2013 budget and financial plan period.

<b>Table 1 - Estimated Fiscal Impact of Bill 18-547 FY 2010 through FY 2013</b>					
	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>Four Year Total</b>
Title III	\$0	(\$66,000)	(\$33,500)	(\$33,500)	(\$133,000)
Title V	\$0	\$363,742	\$1,313,670	\$2,184,440	\$3,861,853
<b>Total Fiscal Impact</b>	<b>\$0</b>	<b>\$297,742</b>	<b>\$1,280,170</b>	<b>\$2,150,940</b>	<b>\$3,728,853</b>

## Background

The proposed legislation would provide new laws and amend existing laws concerning adoption. Each title of the bill is described below.

Title I. Post Adoption Contact Agreement. This title would allow a prospective adoptive parent or an adoptive parent and the birth parent to enter into a written agreement to allow contact, after the adoption, between the birth parent or other birth relatives of the adoptee and the adoptee and adoptive parent while the adoptee is a minor.

Title II. Adoption Fee Cap. This title would amend D.C. Official Code § 4-1401 *et seq.*<sup>2</sup> to provide a definition for "child placement agency;" to require that the Department of Health (DOH), instead of the Department of Human Services (DHS) be responsible for investigating and recommending an agency applying for a license as a child placement agency<sup>3</sup>; to allow authorized child placement agencies to charge a "reasonable fee" instead of an amount not to exceed the average costs incurred; to require that such authorized agencies develop a sliding fee scale based on the per capita family income size of the applicant and provide each applicant with specific cost information; to prohibit a child placement agency from retaining a fee in excess of the nonrefundable administrative costs unless the agency provided a service<sup>4</sup>; and to require the Mayor to issue rules to implement the title.

Title III. Volunteer Foster Care Registry. This title would amend The Prevention of Child Abuse and Neglect Act of 1977<sup>5</sup> to establish and maintain a Volunteer Foster Care Registry ("Registry"),<sup>6</sup> which would allow a registrant<sup>7</sup> a possible way to reconnect with his or her birth family; to provide instruction on how to use the Registry, including what information must be provided on the registration form, paying a one-time fee<sup>8</sup>, and how to make changes or withdraw from the Registry; to provide duties related to the Registry to be carried out by CFSA (or its designee), including searching the Registry for potential matching family members and obtaining

<sup>2</sup> An Act to Regulate the Placing of Children in Family Homes, and For Other Purposes, approved April 22, 1944.

<sup>3</sup> This provision would simply update the language in the Code to reflect current practices.

<sup>4</sup> For instance, a private agency may be obtained for an adoption. However, once the agency performs a home study, it determines the family is not eligible for adoption. This provision specifies that the agency should still be paid for the service of providing the home study, even though an adoption is not imminent.

<sup>5</sup> Effective September 23, 1977 (D.C. Law 2-22; D.C. Official Code § 4-1301.02 *et seq.*).

<sup>6</sup> Within 180 days of the effective date of the Adoption Reform Amendment Act of 2009.

<sup>7</sup> A registrant is defined as "an individual, 18 years of age or older, who was, or currently is, a respondent in a child abuse or neglect case or his or her immediate birth family member.

<sup>8</sup> This would be waived for individuals, who, at the time of registration, are the respondents in an open neglect case and it may be waived or reduced for individuals with verified income at or below the national poverty level.

substantiation of a familial relationship from a reliable, independent third-party source; to define what constitutes a match between a registrant and an immediate family member; and to stipulate that the Registry retain information and documents collected until the date specified by the registrant or for 99 years, whichever occurs first.

This title would also establish the Voluntary Foster Care Registry Fund ("VFCR Fund"), a nonlapsing fund into which all Registry registration fees collected and any gift or appropriation intended to assist in the funding of the Registry would be deposited. Monies in the fund would only be used to cover the costs of administering the Registry.

Lastly, it would require the Mayor to issue rules to implement this title.

Title IV. Foreign Adoption. This title would amend Chapter 3 of Title 16 of the District of Columbia Official Code by adding a new section, § 16-317. *Recognition of foreign adoptions and elective petitions for District adoption.* This new section would stipulate that a final judgment of adoption granted by a body of a jurisdiction or country other than the United States would have the same force and effect in the District as that given to a judgment of adoption entered by the Superior Court of the District of Columbia ("Court") and that no additional proceedings would be necessary if given conditions were met; require DOH to issue a birth certificate upon receipt of specified information; and permit an adoptive parent to file a petition for a District adoption decree with the Court and require the Court to issue the decree if the requirements were met.

Title V. Adoption and Guardian Subsidy Extension. The title would make the following changes to adoption and guardianship subsidies with the goal of increasing permanency outcomes for foster care children:

- Extend the eligibility for adoption subsidies and guardianship subsidies until the age of 21. Currently, adoption and kinship guardianship subsidies end when the child turns 18. However, foster care subsidies are available until the individual turns 21.
- Delete statutory provisions that limit the availability of guardianship subsidies to approved kinship foster parents caring for children in CFSA's legal custody. This would allow non-kinship foster parents and third party placements to also be eligible for guardianship subsidies.
- Prohibit a child who exits foster care to guardianship or adoption from reentering foster care after the age of 18.
- Provide that the provisions would only affect adoptions and guardianships that were finalized on or after the effective date of the bill. As a result, adoptions and guardianships finalized prior to that date would not be eligible for the extension of adoption and guardianship subsidies until the age of 21 or for any non-kinship guardianship subsidy.

This provision would maintain the status quo of not providing adoption or any type of guardianship subsidy to children ages 0 to 2, not allowing guardianships past the age of 18, and allowing adoptions over the age of 18. It also would have no effect on foster care subsidies for children of any age. Table 2 provides a summary of who would receive subsidies under the proposed legislation and who currently receives them, as well as information on federal

reimbursements. While the federal reimbursements are not changed by the proposed legislation, sections of the federal "Fostering Connections to Success and Increasing Adoptions Act of 2008" ("Fostering Connections"),<sup>9</sup> which go into effect on October 1, 2010, extend federal reimbursement for foster care, adoption and guardianship subsidies for youth ages 18 to 21 under certain circumstances.<sup>10</sup> Thus, Fostering Connections has important implications for both the costs and savings related to the proposed legislation.<sup>11</sup>

<b>Table 2 - Summary of the Policies Proposed Relative to the Status Quo and Fostering Connections</b>				
	<b>Status Quo: Subsidy Recipients</b>	<b>Proposed Legislation: Subsidy Recipients</b>	<b>Status Quo: Federal Reimbursement</b>	<b>Fostering Connections: Federal Reimbursement</b>
<b>Foster Children Ages 2 -18</b>	Annual subsidy of \$12,249 <sup>a</sup>	No Change	68% eligible for federal funding <sup>b</sup> (70% federal, 30% local) <sup>c</sup>	No Change
<b>Foster Children Ages 18-21</b>	Annual subsidy of \$12,249	No Change	No federal funding available	34% eligible for federal funding (70% federal, 30% local)
<b>Adopted Children Ages 2- 18<sup>d</sup></b>	Annual subsidy of \$12,249	No Change	80% eligible for federal funding (70% federal, 30% local)	No Change
<b>Adopted Children Ages 18-21<sup>d</sup></b>	No Subsidy	Annual subsidy of \$12,249	Limited federal funding available <sup>e</sup>	40% eligible for federal funding (70% federal, 30% local) <sup>f</sup>
<b>Kin Guardianships Ages 2-18<sup>d</sup></b>	Annual subsidy of \$12,249	No Change	68% eligible for federal funding (70% federal, 30% local)	No Change
<b>Kin Guardianships Ages 18-21<sup>d</sup></b>	No Subsidy	Annual subsidy of \$12,249	No federal funding available	34% eligible for federal funding (70% federal, 30% local)
<b>Non-Kin Guardianships</b>	No Subsidy	Annual subsidy	No federal funding available	No Change

<sup>9</sup> Pub. L. 110-351, § 201(c) (2008).

<sup>10</sup> First, the Fostering Connections legislation permits states to continue federal kinship guardianship assistance up to age 21 for any child who has a mental or physical handicap that the state determines warrants this continued assistance (as is currently the case for adoption assistance). CFSA has not yet determined which mental or physical handicaps warrant such assistance, but it is our understanding that they are in the process of doing so. Second, the Fostering Connections legislation permits states to claim Title IV-E for foster care reimbursement for young adults between the ages of 18 and 21, and for adoption and guardianship reimbursement for young adults between the ages of 18 and 21 who reached permanency after the age of 16, providing the at least one of the following criteria are met:

- Youth is completing his/her secondary education or a program leading to an equivalent credential;
- Youth is enrolled in an institution which provides post-secondary or vocational education;
- Youth is participating in a program or activity designed to promote, or remove barriers to, employment;
- Youth is employed for at least 80 hours per month; or
- Youth is incapable of doing of the activities described in the activities outlined above due to a medical condition.

<sup>11</sup> In fact, the fiscal impact analysis assumes that the extended guardianship and adoption subsidies for youth ages 18 to 21, as well as the new subsidy for non-kinship guardianships, would not go into effect until October 1, 2010—the same time the federal changes go into effect. Therefore, in the analysis, these subsidies would always be eligible for the new federal reimbursement provided by Fostering Connections.

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	<b>Status Quo: Subsidy Recipients</b>	<b>Proposed Legislation: Subsidy Recipients</b>	<b>Status Quo: Federal Reimbursement</b>	<b>Fostering Connections: Federal Reimbursement</b>
<b>Ages 2-21</b>		of \$12,249		

<sup>a</sup> This is the annual subsidy for FY 2010. Each year it increases by 3.5 percent.

<sup>b</sup> Eligibility for federal funding (Title IV-E) was provided by CFSA. Eligibility differs based on the age of children involved and the type of subsidy. Eligibility for foster care subsidies is linked to the AFDC status of the family from which CFSA removed the child. To be eligible for adoption subsidies, the child must meet one of these four requirements: 1) the child was eligible for AFDC; 2) the child was eligible for SSI; 3) the child's parent was in foster care and receiving Title IV-E funds; or 4) the child previously received adoption assistance, and his or her adoptive parent died or the adoption was dissolved. To be eligible for kinship guardianship subsidies, the child must have been cared for by prospective relative guardians in foster care for six consecutive months and the child must be eligible for federal foster care payments in the home of the relative caregiver. In general, in relation to foster care subsidies, eligibility is broader for adoption subsidies and narrower for kinship guardianship subsidies.

<sup>c</sup> Under the American Recovery and Reinvestment Act of 2009 (ARRA), the District's reimbursement rate is increased to 76.2 percent until the end of the 2010 calendar year. Thus it is 76.2 in FY 2010, 71.55 in FY 2011 and 70 thereafter.

<sup>d</sup> To clarify, the subsidy ends when the child turns 18. The extended subsidy (18-21) would end when the youth turns 21.

<sup>e</sup> Under current law, states are eligible for federal reimbursement for adoption subsidies up to age 21 for any child who has a mental or physical handicap that the state determines warrants this continued assistance. However, since DC currently does not take advantage of this, it is not clear what percent of the population would be eligible.

<sup>f</sup> Any person adopted after turning 18 would not be eligible for any federal funds.

### **Financial Plan Impact**

Funds are not sufficient in the FY 2010 through FY 2013 budget and financial plan to implement the provisions of the proposed legislation. While there is an overall positive net impact of \$3.7 million over the FY 2010 through FY 2013 budget and financial plan period, in FY 2011, there is a negative impact on CFSA of approximately \$63,000. Without the reprogramming or reallocation of funds to CFSA to cover these or other costs incurred by CFSA in FY 2011, funds would not be sufficient.

<b>Table 3 - Estimated Fiscal Impact of Bill 18-547 FY 2010 through FY 2013</b>					
	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>Four Year Total</b>
Title III	\$0	(\$66,000)	(\$33,500)	(\$33,500)	(\$133,000)
Title V	\$0	\$363,742	\$1,313,670	\$2,184,440	\$3,861,853
<b>Total Fiscal Impact</b>	<b>\$0</b>	<b>\$297,742</b>	<b>\$1,280,170</b>	<b>\$2,150,940</b>	<b>\$3,728,853</b>

The fiscal impact results from *Title III. Volunteer Foster Care Registry* and *Title V. Adoption and Guardian Subsidy Extension*, which are separately described below.

### Title III. Volunteer Foster Care Registry

The costs for developing and maintaining a Volunteer Foster Care Registry are estimated to be \$0 in FY 2010 and \$133,000 over the FY 2010 through FY 2013 financial plan period. CFSA would bear all of these costs, which mainly would result from employing a database administrator. While these costs would be offset somewhat by a one-time fee paid by applicants, based on the experience in other states,<sup>12</sup> revenue from the fee is only expected to be approximately \$1,000 per year.<sup>13</sup> This revenue is not included in the estimate since the proposed legislation does not contain any details on the amount of the fee, but rather indicates that it would be determined through future rulemaking.

<b>Table 4 - Estimated Fiscal Impact on CFSA of Title III. Volunteer Foster Care Registry FY 2010 through FY 2013</b>					
	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>Four Year Total</b>
Database Administrator <sup>a</sup>	\$0	(\$65,000)	(\$32,500)	(\$32,500)	(\$130,000)
Mailings, etc. <sup>b</sup>	\$0	(\$1,000)	(\$1,000)	(\$1,000)	(\$3,000)
<b>TOTAL</b>	<b>\$0</b>	<b>(\$66,000)</b>	<b>(\$33,500)</b>	<b>(\$33,500)</b>	<b>(\$133,000)</b>

<sup>a</sup> Assumes the database administration would be hired in October 2010, would work full-time in FY 2011 to build the database and input records, and then would work part-time thereafter. Also assumes that the database would be built in Access or a similar program and would not be a web-based application.

<sup>b</sup> Assumes Registry would not be functional until FY 2011.

### Title V. Adoption and Guardian Subsidy Extension

The proposed title would have no cost in FY 2010 and would result in net savings of \$3.9 million over the FY 2010 through FY 2013 budget and financial plan period. No costs or savings are projected for FY 2010 as it is assumed that no new subsidies—either for guardianships or adoptions over 18 or for non-kinship guardianships of any age—would be given until FY 2010.<sup>14</sup>

All of the costs associated with the title would fall on CFSA, but in every year the savings would outweigh these costs, such that over the four-year period, CFSA would realize positive net savings of approximately \$1.5 million. Starting in FY 2011, the Office of the Superintendent of Schools (OSSE), the Department of Mental Health (DMH), the Department of Health Care

<sup>12</sup>In terms of enrollment in such registries and fees charged.

<sup>13</sup> This assumes a fee of \$30 with 75 percent of registrants paying it (the fee for the other 25 percent would be waived due to their income level) and an average of 45 registrations per year.

<sup>14</sup> The legislation does not specify that the new subsidy policy would not go into effect until October 1, 2010.

However, this assumption was made both to simplify the analysis and because the processing of an adoption and/or guardianship can take a number of months, thus making it unlikely that any new guardianships or adoptions that would be eligible for the new or expanded subsidies would occur before the start of FY 2011. For instance, according to CFSA, it should take approximately 8 months from the date of the termination of parental rights (TPR) to the finalization of an adoption, but in practice it often takes longer. Granted if some kids are already close to the process of finalization at the time of the implementation of this bill, their adoptions or guardianships would be finalized earlier.

Finance (DHCF) and the Office of the Attorney General (OAG) would all also realize savings. Table 5 outlines the estimated fiscal impact of the proposed legislation on the Local General Fund by agency for the FY 2010 through FY 2013 Financial Plan period.

<b>Table 5 - Estimated Fiscal Impact of Title V on the Local General Fund, By Agency FY 2010 through FY 2013</b>					
	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>Four Year Total</b>
CFSA	\$0	\$2,582	\$554,861	\$923,828	\$1,481,271
OSSE	\$0	\$313,258	\$662,569	\$1,069,509	\$2,045,336
DMH	\$0	\$37,007	\$74,013	\$111,020	\$222,040
DHCF	\$0	\$10,896	\$22,227	\$34,008	\$67,131
OAG	\$0	\$0	\$0	\$46,075	\$46,075
<b>Net Fiscal Impact</b>	<b>\$0</b>	<b>\$363,742</b>	<b>\$1,313,670</b>	<b>\$2,184,440</b>	<b>\$3,861,853</b>

More details on the fiscal impact are provided in Table 7 after the following analysis.

### *Analysis of the Proposed Title*

The main goal of this legislation is to increase the permanency outcomes for children in the foster care system. The first way the proposed legislation intends to do so is by extending adoption and kinship guardianship subsidies until the age of 21. Currently, there is a greater monetary incentive to be a foster parent instead of an adoptive parent or a guardian: subsidy payments continue until 21 for foster care, but end at 18 for adoption and kinship guardianships. Thus, by making all three options financially the same, those who would have adopted or entered into a kinship guardianship with a child but for the lack of the subsidy payment, would now do so.<sup>15</sup>

The other way the proposed legislation intends to increase permanency outcomes is to offer non-kinship guardianships for the first time. The assumption is that there are prospective guardians and foster parents who would like to be non-kinship guardians for children currently in foster care, but are not due to the lack of any financial support. In order not to create any imbalance among these options, non-kinship guardianship subsidies would also be offered until the age of 21.

To the extent that such subsidies actually motivate current foster parents and prospective adoptive parents and guardians to offer permanency to kids in foster care, the proposed legislation would result in net savings.

First, in terms of subsidies, reoccurring significant increases in costs would come from: a) having to pay the *full* cost of the subsidy for non-kinship guardianships (if these children remained in foster care, a portion of them would have been eligible for federal reimbursement); and b) providing adoption and guardianship subsidies for youth 18 to 21 who would have been adopted or guardianship without the proposed legislation (under current law they would not be given any

<sup>15</sup> In reality, subsidies differ based on age, needs of the child and type. However, the average subsidy for each type is basically the same. For the fiscal impact analysis, they are assumed to all be equal.

subsidy). Other increases in costs would come from: a) having to pay the *full* cost of the subsidy for 18 to 21 year olds who are adopted as a result of the proposed legislation (under current law a percentage of them would have been eligible for federal funding for foster care)<sup>16</sup>; b) the need to provide more guardianship and adoption services; and c) a one-time cost for updating CFSA's Statewide Automated Child Welfare Information System (FACES.NET) with the new eligibility rules.

All of these costs, though, are less than the current level of local expenditure that supports a foster child. Some of these expenditures, such as those related to contracted services and congregate care, occur regardless of where the child is adopted or guardianship. Other expenditures, such as school tuition, occur only if the child is adopted or guardianship outside of the District.

These costs and savings are described below.

#### Costs Incurred Because of the Proposed Legislation

As described above, these costs are related to subsidies, services and information technology (IT).

##### 1. Adoption and Guardianship Subsidies.

- *Non-Kinship Guardianships for individuals between 2-21 years of age:* \$12,249 per child. (Under current law, these children would have been given a foster care subsidy instead.)
- *Adoption and Kinship Guardianships for all those between 18-21 years of age:* \$3,675 per child for 37 percent of the population who are eligible for federal reimbursement (as of October 1, 2010); and \$12,249 per child for 63 percent who are not eligible for federal reimbursement.<sup>17</sup> This would be given to both individuals currently under 18 that would have been adopted or guardianship regardless of the policy change (under current law their subsidies would have stopped when they turned 18)<sup>18</sup> and those adopted or guardianship as a result of the policy change (under current law these youth would have been given a foster care subsidy instead).
- *Adoption and Guardianships for those under 18 resulting from the policy change:* \$3,675 per child for 74 percent of the population who are eligible for federal reimbursement; and \$12,249 per child for 26 percent who are not eligible for federal.<sup>19</sup> (Under current law, these children would have been given a foster care subsidy instead.)

##### 2. Services.

- *Post permanency:* \$300 per child. CFSA provides these services via a private provider at a post permanency center and related support (e.g., counseling) to individuals that have

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<sup>16</sup> This would only affect a small number of people. The FIS estimates there would be 1 in FY 2011, 2 in FY 2012 and 3 in FY 2013. No guardianships past 18 are allowed under current law or under this bill.

<sup>17</sup> No individual adopted after the age of 18 would be eligible for federal funding.

<sup>18</sup> Guardianships over 18 are not allowed under current law. Adoptions over 18 are allowed, but they rarely, if ever, occur. For this reason, there would not be any individuals who would qualify for the extended 18-21 adoption or guardianship subsidy in FY 2010. Starting in FY 2011, those 17 year olds who were adopted or guardianship in FY 2010 (again these are the result of the current not the proposed law) would now be 18.

<sup>19</sup> 74 percent is the average of the adoption eligibility rate of 80 percent and the guardianship eligibility rate of 68 percent.



been adopted or guardianed.

- *Non-recurring adoption costs:* \$1,800 per adoption.<sup>20</sup> CFSA pays for attorneys for some adoption proceedings.
3. IT Costs. One-time changes would have to be made to FACES.NET (CFSA's Statewide Automated Child Welfare Information System)<sup>21</sup>, which would result in a one-time total cost of approximately \$500,000.<sup>22</sup> However, since the federal government under Title IV-E would reimburse 50 percent of this amount, the cost to CFSA would only be \$250,000.<sup>23</sup> Given that any incentivized guardianships and adoptions would not occur until FY 2011, CFSA confirmed that it could wait until FY 2011 to implement the changes, when the reprogramming could be funded through estimated savings from the proposed legislation

#### Current Foster Care Costs (Potential Savings)

The following are costs that are currently incurred by the District, but which could be avoided if foster care children were adopted or guardianed.

1. Annual Foster Care Subsidies.
  - *Traditional Foster Care for those under 18:* \$3,675 per child for 68 percent who are eligible for federal reimbursement; and \$12,249 per child for 32 percent who are not eligible for federal reimbursement.
  - *Traditional Foster Care for those over 18:* \$3,675 per child for 34 percent who are eligible for federal reimbursement (as of October 1, 2010); and \$12,249 per child for 66 percent who are not eligible for federal reimbursement.<sup>24</sup>
2. Congregate Care (or Group Home) Costs. The local share of the costs for such care is \$18,500 per year per child. However, because it is not clear how long children remain in congregate care, it is assumed that the child would have remained in congregate care no more than a year. After that, it is assumed that the child would return to traditional foster care.<sup>25</sup>
3. Contracted Services. CFSA provides some additional services to foster children, such as tutoring. CFSA estimates the average cost of contracted services for each child in foster care

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<sup>20</sup> This is the local share for these costs. The federal government does reimburse CFSA for 50 percent of these costs. The lower reimbursement rate is because these are considered administrative costs.

<sup>21</sup> FACES.NET is a comprehensive case management system that supports CFSA in all areas of critical business functions. Title IV-E Foster Care, Adoption and Guardianship eligibility is a fully-automated, system-generated determination based on the data maintained in FACES.NET.

<sup>22</sup> CFSA estimated the cost based on previous similar upgrades to the system, such as the new IV-E Eligibility Determination Module for the Guardianship Assistance Program under Fostering Connections. The work took about 10 months from start to finish. CFSA believes the upgrades needed to comply with the proposed legislation would be more complicated because they would also require development of a fairly robust ongoing redetermination mechanism.

<sup>23</sup> In order to be federally reimbursed, CFSA would need to submit to a plan to the Administration for Children and Families (ACF) for approval. CFSA is confident that such approval would occur given previous experiences and current law regarding Title IV-E funding. However, if CFSA did not submit the necessary documentation or if their request was denied, this could have serious consequences. If there was not adequate funding for the FACES.NET upgrades, it would not be possible to get federal reimbursement for adoptions, kinship guardianships and foster care subsidies for ages 18-21. As a result, the costs would be much higher.

<sup>24</sup> Currently, there is no federal reimbursement for foster care subsidies for youth 18-21.

<sup>25</sup> This approach was taken in an effort to capture the likely savings from congregate care, but also to be conservative in how much these savings would amount to.

is \$6,800.

4. Health Costs.

- *Medicaid*: If a child is adopted outside of the District, DHCF no longer pays Medicaid costs for these children. However, DHCF continues to pay Medicaid costs for all guardianed children, even if they live outside of the District. The local share of the average cost for Medicaid per child is approximately \$1,200.
- *Mental Health Care Costs*: DMH pays for additional mental health care costs for foster care children of approximately \$4,000 per child.<sup>26</sup>

5. Personnel.

- *CFSA*: As caseloads are reduced, CFSA would be able to eventually reduce the number of Social Workers (Grade 11), Social Service Assistants (Grade 8) and Social Worker Supervisors (MS 13).<sup>27</sup>
- *OAG*: The OAG would also be able to reduce the number of lawyers (Grade 13) who work on foster care cases.

6. Education. OSSE would no longer have to pay out-of-state tuition at public schools in surrounding counties for foster care children that are adopted or guardianed out-of-state. The average tuition at county public schools is \$12,000 for standard and \$26,000 if the child has special education needs.<sup>28</sup>

New Adoptions and Guardianships

The below analysis heavily relies on key assumptions about the number of children who would be adopted, enter into kinship guardianships and enter into non-kinship guardianships under current law, and as a result of the proposed legislation, the age distributions of these children, and their placement before permanency. To estimate these numbers, the analysis draws from a paper entitled "Extending and Expanding Adoption and Guardianship Subsidies for Children and Youth in the District of Columbia Foster Care System: Fiscal Impact Analysis," by Professor Mary Hansen (American University) and Josh Gupta-Kagan (Senior Attorney, Children's Law Center). Professor Hansen uses detailed data on foster care cases between 2004 and 2008 provided by CFSA to project the number of adoptions and guardianships that would have resulted under current law, the number of new adoptions and kinship guardianships that would result from the proposed legislation, and the age distribution and placement before permanency for these new incentivized adoptions and guardianships. Additional information from a randomized controlled experiment in Illinois was used to determine the number of non-kinship guardianships.<sup>29</sup> The final projection was 141 new adoptions and guardianships per year directly resulting from the proposed legislation. However, this was based on legislation that would have

<sup>26</sup> The \$4,000 is a per claim per child cost.

<sup>27</sup> CFSA may face institutional barriers to reducing staff, which would impact their ability to realize agency savings.

<sup>28</sup> County Public School tuition is based on Prince Georges County since over 80% of all out-of-state wards attend schools in that county. The tuition is comparable to other surrounding county public schools. For more information on education, see note e of Table 4 and the section on Other Potential Savings.

<sup>29</sup> This is based off the findings from a randomized controlled experiment in Illinois in which one group was offered subsidies for guardianships. The combined permanency rate for children originally placed with non-relatives in the experimental group was 9.1 percentage points higher than the control group. While not all of the difference is because of non-kinship guardianships, this is assumed here because doing so makes the cost larger and thus more conservative. Source: that Mark F. Testa *et al.*, *Final Evaluation Report: Illinois Subsidized Guardianship Waiver Demonstration*, Children and Family Research Center (2003), available at <http://www.cfrc.illinois.edu/pubs/Pdf.files/sgfinalreport.pdf>.

allowed guardianships to be entered into after the child turned 18; the proposed title does not include such a provision. Taking this into account, the methodology developed by Hansen and Gupta-Kagan would have estimated 138 new adoptions and guardianships per year.<sup>30</sup>

Based on conversations with CFSA and the OAG, current CFSA data and the Illinois study, it was determined that this estimated number of adoptions and guardianships per year was very high.<sup>31</sup> The OCFO analysis presented below assumes that it would take three fiscal years for these 138 new adoptions and guardianships to occur; thus there would be 46 new adoptions and guardianships per year.<sup>32</sup> For simplicity, it also assumes that all 46 adoptions would be finalized at the beginning of each fiscal year, starting in FY 2011.<sup>33</sup>

Furthermore, the analysis assumes that all 46 of these children would have remained in foster care until the age of 21, but for the proposed legislation. Of these 46, 19 would be from new adoptions, 19 from new kinship guardianships and 8 from new non-kinship guardianships. Of the 38 adoptions and kinship guardianships, 37 would be under 18 and 1 would be between 18 and 21. The 8 non-kinship guardianships would be under 18 since guardianships over 18 are not permitted.<sup>34</sup>

In terms of their placement before permanency, it is estimated that of those under 18, 41 would be in traditional foster care and 4 would be in congregate care (group home). The one ward above 18 would also be in traditional foster care.<sup>35</sup> These distinctions all are important as they have implications for federal reimbursement and costs.

Another important aspect of this analysis is the inclusion of compounding: that for every year

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<sup>30</sup> Hansen and Gupta-Kagan projected there would be two 18-year-olds, two 19-year-olds and two 20-year-olds adopted or guardianed ever year as a result of this legislation. They also note that adoption numbers generally track guardianships; thus, we project that 3 individuals between the ages of 18 and 20 would be adopted, and none would be guardianed.

<sup>31</sup> For instance, currently only approximately 200 kids are adopted or guardianed each year. Thus, 141 new adoptions and guardianships would almost double this amount. In addition, of those children that have been in foster care for over 2 years, only approximately 570 have a permanency goal of adoption or guardianship. If 141 new adoptions and guardianships occurred each year, there would be no more foster care kids with these goals left after 4 years. Granted, it is possible that their goals would change as the result of the legislation. In general, it is simply not possible to know what effect this legislation would have on behavior until it is implemented. However, the econometric analysis done by Dr. Hansen is the best projection available since it is based on actual data.

<sup>32</sup> This analysis also differs from the analysis in the paper in other ways. In general, it is more conservative in nature. For instance, it does not assume any children would be in institution prior to permanency, it assumes lower eligibility for Title IV-E funds for adoption and guardianships subsidies for ages 19-21; it assumes there would be no transportation savings; and it assumes that all children guardianed or adopted in MD or VA that lived there previously attend a county public school.

<sup>33</sup> It is likely that the adoptions and guardianships would happen throughout the year.

<sup>34</sup> This distribution is loosely based on the distribution presented in "Extending and Expanding Adoption and Guardianship Subsidies for Children and Youth in the District of Columbia Foster Care System: Fiscal Impact Analysis." However, unlike the paper, it does not assume that some of the non-kinship guardianships would have been adoptions, but for the policy change.

<sup>35</sup> This distribution is loosely based on the distribution presented in "Extending and Expanding Adoption and Guardianship Subsidies for Children and Youth in the District of Columbia Foster Care System: Fiscal Impact Analysis." However, unlike the paper, it does not assume that any children would be in therapeutic foster care, runaways or live in institutions.

after Year 1, the total number of children for each group (adoption, kinship guardianship and non-kinship guardianship) contains not just those that were adopted or guardianshiped in that year, but also those that were adopted or guardianshiped in previous years. This is because absent this legislation, these children would have remained in foster care.<sup>36</sup> Table 6 outlines the assumptions about the flow of children out of foster care into various permanent arrangements between FY 2010 and FY 2013.

<b>Table 6 – Projected New Adoptions and Guardianships Resulting from Title V</b>				
	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>
Adoptions and Kinship Guardianships: Under 18	0	37	73	108
Adoptions and Kinship Guardianships: Over 18	0	1	3	6
New Non-Kinship Guardianships: Under 18	0	8	15	22
New Non-Kinship Guardianships: Over 18	0	0	1	2
<b>Total</b>	0	46	92	138
<b>Placement Before Permanency</b>				
Traditional Foster Care: Under 18	41	41	84	126
Traditional Foster Care: Over 18	1	1	4	8
Congregate Care	4	4	4	4

Note that the above table and the preceding discussion do not include any data on adoptions and guardianships that would have occurred regardless of any change in policy. Based on Hansen's and Gupta-Kagan's analysis, as well as current data from CFSA, it is assumed that there would be a total of 175 such adoptions and kinship guardianships per year.<sup>37</sup>

### Fiscal Impact

The analysis shows that even with a relatively low number of adoptions and guardianships the added costs of extending subsidies to the age of 21 and providing subsidies for non-kin guardianships for the first time to individuals between the ages of 2 and 21 would quickly be outweighed by the savings realized by no longer having to pay the costs associated with retaining these individuals in the foster care system. Table 7 outlines the financial impact of the proposed

<sup>36</sup> This has implications for both the costs and the savings. For illustrative purposes, as a result of the proposed legislation, assume that three 4 year olds and five 5 year olds would enter into non-kinship guardianships each year. In Year 1, the District would be responsible for providing a non-kinship guardianship subsidy to five 5 yr olds. In Year 2, though, the District would be responsible for providing a subsidy to the five new 5 year olds that are guardianshiped, as well as the three 4 year olds that are now 5, for a total of 8 five year olds. On the cost side, assume that these five 5 year olds are guardianshiped in Maryland where they currently attend public school. As a result, OSSE would no longer have to pay tuition costs for 5 five year olds in Year 1 and 8 five year olds in Year 2. The table below provides the actual numbers used for each group taking into account this compounding. Again, the total number of new adoptions and guardianships each year is only 47.

<sup>37</sup> See "Extending and Expanding Adoption and Guardianship Subsidies for Children and Youth in the District of Columbia Foster Care System: Fiscal Impact Analysis" for more information. Also CFSA reported that in FY 2009, a total of 188 children were adopted or guardianshiped. However, this number includes children ages 0 to 2, which would be excluded from receiving any type of adoption or guardianship subsidy (as is the status quo) and which likely equals about 10 percent of the total.

title. It is important to note that the analysis assumes that CFSA is able to take full advantage of all available Title IV-E federal reimbursements.

<b>Table 7 - Estimated Fiscal Impact of Title V on the Local General Fund, By Expenditure Type, Fiscal Impact on the Local General Fund FY 2010 through FY 2013</b>					
	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>Four Year Total</b>
<b>COSTS</b>					
Subsidies for All Adoptions and Kinship Guardianships: 18-21 <sup>a</sup>	\$0	(\$40,642)	(\$152,639)	(\$342,635)	(\$535,916)
Subsidies for Adoptions and Kinship Guardianships because of change: Under 18	\$0	(\$220,711)	(\$461,684)	(\$706,945)	(\$1,389,340)
Subsidies for All New Non-kinship Guardianships	\$0	(\$96,147)	(\$197,387)	(\$301,830)	(\$595,364)
CFSA Post Permanency Costs	\$0	(\$13,500)	(\$26,700)	(\$39,300)	(\$79,500)
Non-recurring Adoption Expenses	\$0	(\$33,600)	(\$33,600)	(\$33,600)	(\$100,800)
FACES.NET Cost (IT costs)	\$0	(\$250,000)	\$0	\$0	(\$250,000)
<b>Total Cost</b>	<b>\$0</b>	<b>(\$654,599)</b>	<b>(\$872,010)</b>	<b>(\$1,424,311)</b>	<b>(\$2,950,920)</b>
<b>SAVINGS</b>					
Subsidies for Traditional Foster Care: Over 18	\$0	\$9,593	\$39,994	\$82,787	\$132,374
Subsidies for Traditional Foster Care: Under 18	\$0	\$266,885	\$577,544	\$896,637	\$1,741,067
Congregate Care: Under 18 <sup>b</sup>	\$0	\$67,902	\$67,902	\$67,902	\$203,706
Contracted Services	\$0	\$10,896	\$22,227	\$34,008	\$67,131
Medicaid Cost per child adopted out of state (DHCF)	\$0	\$312,800	\$618,800	\$931,600	\$1,863,200
Mental Health Cost per child adopted out of state <sup>c</sup> (DMH)	\$0	\$37,007	\$74,013	\$111,020	\$222,040
CFSA Personnel <sup>d</sup>	\$0	\$0	\$122,631	\$369,213	\$491,844
OAG Personnel <sup>d</sup> (OAG)	\$0	\$0	\$0	\$46,075	\$46,075
Tuition for County Public Schools: No Special Education <sup>e</sup> (OSSE)	\$0	\$142,671	\$301,762	\$487,100	\$931,534
Tuition for County Public Schools: Special Education <sup>e</sup> (OSSE)	\$0	\$170,587	\$360,807	\$582,409	\$1,113,802
<b>Total Savings</b>	<b>\$0</b>	<b>\$1,018,342</b>	<b>\$2,185,680</b>	<b>\$3,608,751</b>	<b>\$6,812,773</b>
<b>NET SAVINGS</b>	<b>\$0</b>	<b>\$363,742</b>	<b>\$1,313,670</b>	<b>\$2,184,440</b>	<b>\$3,861,853</b>

Note: All costs and savings are for CFSA unless otherwise noted in parenthesis.

<sup>a</sup> This includes both individuals who were adopted and guardianship because of the proposed title, as well as those that would have been adopted or guardianship without it.

<sup>b</sup> Since ORA has no information about how long children remain in congregate care, it is assumed that the child would have remained in congregate care no more than one year. After that, it is assumed that the child would return to traditional foster care.

<sup>c</sup> ORA was not able to obtain data on the percentage of foster care children who have mental health care claims, nor the average amount of claims per child. Therefore, it is assumed that there is only one claim per child and the savings would only apply to those children adopted outside of the District, as is the case for Medicaid.

<sup>d</sup> It is assumed that no staff reductions would occur until FY 2011 to account for the need to first reduce caseloads to acceptable levels among current staff. Also in the year employees are let go, the savings equate to only half of their salary; the other half is for severance payments.

<sup>e</sup> It is assumed that 50 percent<sup>38</sup> of the 47 new adoptions and guardianships currently live in Maryland or Virginia and attend one of their public schools: 65 percent have no special education needs and 35 percent have special education needs.<sup>39</sup> School age children include 74 percent of 4 years olds and everyone between 5 and 19.<sup>40</sup>

### Other Potential Savings

There are a few other potential savings that the analysis did not take into account because they could not be reliably estimated. However, since they could still occur, they are worth noting.

1. Therapeutic Foster Care. According to CFSA, between August 1, 2008 and July 31, 2009 approximately 11 percent of the children that exited to adoption and 9 percent of the children that exited to guardianship came from therapeutic foster care. Therapeutic foster care costs, which equal roughly \$69,000 per year per child (of which only \$12,000 is potentially eligible for the 70 percent federal reimbursement), include both foster care subsidies and the salaries of private foster care agency social workers and related staff. If some of the new adoptions and guardianships resulting from the proposed title were in therapeutic foster care prior to permanency, CFSA could realize additional savings, related mostly to the private staff costs.
2. Education. As described above, it is assumed that all children adopted or guardian outside of DC currently go to an out-of-state public school. However, currently only approximately 56 percent of children that live outside of DC attend an out-of-state public school.<sup>41</sup> Of the remaining 44 percent, all of whom are children with special education needs, approximately 28 percent go to a nonpublic school in Maryland or Virginia, 7 percent attend a nonpublic school in DC, and 9 percent attend a DC public school. The tuition at the nonpublic schools is 4 times the tuition of general county school tuition and twice that of special education tuition.<sup>42</sup> Thus, if any children that were adopted or guardian as a result of the title had been in nonpublic instead of county public schools, there would be additional savings.
3. Transportation Costs. DC currently provides transport for 297 wards that live outside of DC. According to a memo dated March 26, 2009 by David Gilmore, the federal court-appointed receiver of DC special education transportation services, 40 of the 257 bus routes exclusively serve those children domiciled in Maryland or Virginia. In addition, 11 of the routes have only one child on the bus and 6 routes have only 2 children. If one of these 11 children were adopted or guardian in Maryland or Virginia as a result of this policy, DC would save \$100,000 per year in transportation costs.

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<sup>38</sup> Based on current CFSA data, of the 2143 wards in out-of-home-care (foster care, group homes, residential, independent living or other), 39 percent live in the District, 55 percent in Maryland, 2 percent in Virginia and 4 percent in other. Looking at just the foster care population, 31 percent live in the District, 68 percent in Maryland, 1 percent in Virginia and 1 percent in other.

<sup>39</sup> Based on the 2008 Fall Enrollment Audit Report. See attachment 16:  
<http://osse.dc.gov/seocwp/view,a,1222,q,563398.asp>.

<sup>40</sup> In Maryland, public school pre-K is only available to 4 year olds who meet certain income requirements. It is assumed that those who meet the federal requirements for adoption and guardianship subsidies would meet these requirements.

<sup>41</sup> These percentages are based on various data sources and are not only meant to approximate the current situation and not exactly account for it.

<sup>42</sup> The tuition at a nonpublic school in Maryland, Virginia or DC is approximately \$60,000 and the tuition for a DC public school for a student with special education needs is roughly \$22,000.

4. Residential Treatment Facilities. Approximately 5 percent of the total foster care population lives in Psychiatric Residential Treatment Facilities (PRTF). The cost per child is roughly \$128,000 per year, a portion of which may be eligible for federal reimbursement. If any child that was adopted or guardianshiped as a result of this proposed title came from a PRTF, there would be additional savings.
5. Prohibition to Reenter Foster Care. The proposed legislation states that after the age of 18, an individual who has been guardianshiped or adopted cannot reenter foster care. The preceding analysis assumes no such disruptions take place and instead assumes that CFSA (and the other government agencies) is responsible for providing these individuals with services and subsidies until the age of 21. If the guardianship or adoption is disrupted after the age of 18, regardless of whether the permanency outcome was a result of the proposed legislation, this could provide substantial savings as CFSA would no longer have to provide any subsidy or related services to the individual.<sup>43</sup>

#### Longer Term Fiscal Implications

In the long-term, CFSA will see an increase in costs from providing children that would have been adopted or guardianshiped without this legislation with a subsidy until the age of 21. These increasing costs are not captured in the four year budget and financial plan period because the largest number of adoptions or guardianships that would have occurred without the proposed legislative changes would involve children that are currently between the ages of 9 to 12. At most, these children would be only 16 by FY 2013 and thus not yet eligible for the expanded subsidies. A separate analysis conducted by the OCFO found that after FY 2014, the net savings for CFSA start to decrease and in FY 2019 they become negative. However, the overall net savings remains large and positive—roughly \$3.5 million.<sup>44</sup> Given this, there may be a need in the future to provide CFSA with additional funds to cover these costs.

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<sup>43</sup> CFSA's FY 2009 Annual Report states that for every 10 kinships, 1.7 are disrupted.

<sup>44</sup> It should be noted, though, that projecting the effect of this legislation for 10 years is extremely problematic since the costs associated with this analysis, the foster care population and the demand for adoptions and guardianships could all significantly change. In addition, there could be policy changes that affect the costs and savings.